

Adopted	Rejected
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COMMITTEE REPORT

YES:	13
NO:	0

MR. SPEAKER:

*Your Committee on Technology, Research and Development, to which was referred House Bill 1791, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill **be amended** as follows:*

- 1 Page 1, line 13, delete "tobacco" and insert "**cigarettes**".
- 2 Page 1, line 14, delete "products".
- 3 Page 2, delete lines 37 through 42.
- 4 Page 3, delete lines 1 through 8, begin a new paragraph and insert:
- 5 "SECTION 3. IC 6-7-2-24 IS ADDED TO THE INDIANA CODE
- 6 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
- 7 1, 2003]: **Sec. 24. (a) As used in this section, "face to face sale"**
- 8 **means a sale in which the consumer is in the physical presence of**
- 9 **the seller at the time of the sale. The term does not include a**
- 10 **transaction conducted:**
- 11 **(1) through the mail;**
- 12 **(2) on the Internet;**
- 13 **(3) on the telephone; or**
- 14 **(4) by any other method;**
- 15 **in which the consumer is not in the physical presence of the seller**
- 16 **at the time of the sale.**

1 (b) Except as provided in subsection (c), a sale of tobacco
2 products must be a face to face sale.

3 (c) A person may engage in a sale of tobacco products that is not
4 a face to face sale if:

5 (1) all applicable taxes under this chapter have been paid; or

6 (2) the seller places a legible and conspicuous notice on the
7 outside of the container in which the tobacco products are
8 shipped. The notice shall be placed on the same side of the
9 container as the address to which the container is shipped and
10 shall state the following:

11 "If these tobacco products have been shipped to you from
12 a seller located outside the state in which you reside, the
13 seller has reported under federal law information about
14 the sale of these tobacco products, including your name
15 and address, to your state tax collection agency. You are
16 legally responsible for all applicable unpaid state taxes on
17 these tobacco products."

18 (d) The department may bring suit to enforce this section. If a
19 court enters a judgment for a violation of this section, the court
20 shall impose, in addition to any other remedies, a civil penalty as
21 follows:

22 (1) If a defendant has one (1) judgment for a violation of this
23 section committed during a five (5) year period, a civil penalty
24 of at least one thousand dollars (\$1,000) and not more than
25 two thousand dollars (\$2,000).

26 (2) If a defendant has two (2) unrelated judgments for
27 violations of this section committed during a five (5) year
28 period, a civil penalty of at least two thousand five hundred
29 dollars (\$2,500) and not more than three thousand five
30 hundred dollars (\$3,500).

31 (3) If a defendant has three (3) unrelated judgments for
32 violations of this section committed during a five (5) year
33 period, a civil penalty of at least four thousand dollars
34 (\$4,000) and not more than five thousand dollars (\$5,000).

35 (4) If a defendant has four (4) unrelated judgments for
36 violations of this section committed during a five (5) year
37 period, a civil penalty of at least five thousand five hundred
38 dollars (\$5,500) and not more than six thousand five hundred

- 1 **dollars (\$6,500).**
- 2 **(5) If a defendant has five (5) or more unrelated judgments**
- 3 **for violations of this section committed during a five (5) year**
- 4 **period, a civil penalty of ten thousand dollars (\$10,000).".**
- 5 Renumber all SECTIONS consecutively.
(Reference is to HB 1791 as introduced.)

and when so amended that said bill do pass.

Representative Hasler